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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,246	10/15/2002	Ferenc T Fekete	3716/138	3208

7590

03/01/2004

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EXAMINER
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CEGIELNIK, URSZULA M

ART UNIT	PAPER NUMBER
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3712

DATE MAILED: 03/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/089,246

Applicant(s)

FEKETE ET AL.

Examiner

Urszula M Cegielnik

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 November 2003.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-13 and 15 is/are rejected.  
7) ☒ Claim(s) 14 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 8.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 13 is rejected under 35 U.S.C. 102(b) as being anticipated by United Kingdom Publication No. GB 876054, hereinafter UK '054.

UK '054 discloses a magnetically guided traveling toy comprising a body (19); two motor (24) driven wheels (20) at a back end of the body; and a magnetically guided wheel assembly (22) at a front end of the body (19); the wheel assembly including a magnet/wheel holder (27) pivotably coupled to the body (19), a forward projecting arm (26), a magnet (28) disposed to the underside of the arm (26) at a distal end, and one wheel (22) in a non-offset vertical alignment with the pivot axis of the holder (27). The one wheel (a single wheel of magnetically guided wheel assembly 22) is indeed in a non-offset vertical alignment with the pivot axis of the holder (see Figure 6).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7, 9, 11, 12, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yonezawa in view of Fosbenner et al.

Yonezawa discloses a magnetically guided toy vehicle (A) with a substrate (B) having a guide path (B1), the guide path shaped in a continuous closed loop (see the Figures), and the guide path formed of magnetically attractive material.

Yonezawa does not disclose printing the graphic with ferromagnetic ink over the substrate.

Fosbenner et al disclose magnetic substrates usable with toy magnetically actuated fluid display devices (col. 1, lines 5-6). The reference teaches printing ferromagnetic ink over a substrate and the graphic printed using silk screening techniques (col. 9, lines 36-39. The application of a protective layer over the substrate and graphic is also disclosed (col. 9, lines 61-64). An opaque layer is overlying a major side of a first layer (col. 1, lines 57-60); affixing the substrate to a rigid support (col. 4, lines 8-15); the substrate is paper (col. 4, lines 8-15); the opaque sheet is paper (col. 4, lines 8-15).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to print the graphic with ferromagnetic ink over the substrate as taught by Fosbenner et al., since such a modification serves as an alternate means of placing a magnetic attractive material on the substrate.

Claims 8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 9 above, and further in view of Eppley.

Yonezawa, as modified by Fosbenner et al., lacks the protective layer being a UV coating.

Eppley discloses a process of printing an image on a substrate. The substrate (a simulated eye member) is coated with a UV coating after coloring (col. 3, lines 20-24).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to apply a UV coating over a graphic image as taught by Eppley, since such a modification would prevent the graphic image from fading.

#### ***Allowable Subject Matter***

Claim 14 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Urszula M. Cegielnik whose telephone number is 703-306-5806. The examiner can normally be reached on Monday through Friday, from 5:30AM - 2:00PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris H. Banks can be reached on 703-308-1745. **The fax phone number**

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**for the organization where this application or proceeding is assigned is 703-872-9306 for both regular and After Final communications.**

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Customer Service at 703-306-5648.

Urszula M. Cegielnik  
Assistant Examiner  
Art Unit 3712



DERRIS H. BANKS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700